

STATE OF NORTH DAKOTA
BEFORE THE COMMISSIONER OF INSURANCE

In the Matter of

DDC, Inc.,
FEIN 912189904,

Respondent.

CONSENT ORDER

Commissioner of Insurance Jim Poolman (hereinafter "Commissioner") has determined as follows:

1. DDC, Inc., is a North Dakota corporation, licensed as an insurance agency, FEIN 912189904.

2. Diane K. Cottingham was at all times pertinent to this action a licensed North Dakota insurance agent and President and Secretary/Treasurer of DDC, Inc., until her death on March 24, 2007. Diane K. Cottingham was also the Designated Responsible Licensed Producer for Respondent.

3. Dean Cottingham is the Vice President of DDC, Inc., and surviving husband of Diane Cottingham.

4. Amanda J. Cottingham, NPN 7731959, is presently and has been at all times pertinent to this action a licensed North Dakota insurance agent and a Director of DDC, Inc.

5. Jessica L. Cottingham, NPN 5740437, is presently and has been at all times pertinent to this action a licensed North Dakota insurance agent and a Director of DDC, Inc.

6. On March 24, 2007, North Dakota Insurance Commissioner Jim Poolman issued a Cease and Desist Order to Diane K. Cottingham, a copy of which is attached as Exhibit 1 and incorporated in these findings by reference.

7. The Department conducted an investigation of Diane K. Cottingham and the books and records of the Respondent. The Department's investigation showed that Diane K. Cottingham misappropriated and converted insurance clients' moneys totaling at least \$713,396.43 to her own personal use and the business use of the Respondent. The moneys were deposited into various bank accounts controlled by Diane K. Cottingham, Respondent, and/or the officers and/or directors of the Respondent. Diane K. Cottingham failed to use the moneys to obtain insurance with properly licensed insurance companies and provided the insurance clients with false and misleading documents purporting to show that insurance had been placed with a properly licensed insurance company. Diane K. Cottingham paid \$38,572.30 in claims for these insurance clients from Respondent's agency account, and engaged in other deceitful acts and practices that misled policyholders into believing that they were insured with a properly licensed insurance company. Further, Diane K. Cottingham knowingly and intentionally operated as an insurance company by accepting premiums which were deposited into Respondent's agency accounts, assumed risks, and paid claims without holding a valid license to operate as an insurance company.

8. That Diane K. Cottingham's conduct violated N.D. Cent. Code §§ 26.1-02-05, 26.1-04-03(12), 26.1-26-13.1(1), and 26.1-26-42(6), (7), and (10).

9. N.D. Cent. Code § 26.1-26-43 provides that:

The license of a business entity may be suspended, revoked, or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers,

or managers acting on behalf of the business entity and the violation was not reported to the commissioner nor corrective action taken in relation to the violation.

10. The Department believes that Diane K. Cottingham, in her capacity as President, Secretary/Treasurer, and the Designated Responsible Licensed Producer for the Respondent, was aware that her conduct violated N.D. Cent. Code §§ 26.1-02-05, 26.1-04-03(12), 26.1-26-13.1(1), and 26.1-26-42(6), (7), and (10). Diane K. Cottingham failed to report these violations to the Commissioner and failed to take corrective action in relation to the violations.

11. Diane K. Cottingham's failure to report the violations to the Commissioner are grounds to suspend, revoke, or refuse the Respondent's license under N.D. Cent. Code § 26.1-26-43.

12. Respondent acknowledges that at the time of signing the Consent to Entry of Order, it was aware of or had been advised of its rights to a hearing in this matter, to consult an attorney, to present argument to the Commissioner, to appeal from any adverse determination after a hearing, and Respondent expressly waives those rights.

13. Respondent has agreed to an informal disposition of this matter, without a hearing, as provided under N.D. Cent. Code § 28-32-22.

14. For purposes of resolving this matter, without further administrative proceedings, Respondent and the Commissioner have agreed to enter into the following order:

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent shall immediately refund all premium amounts due back to the policyholders identified in Exhibit 2, a copy of which is attached hereto.

2. Respondent shall refund all premium amounts due back to policyholders pursuant to Paragraph 1 on or about June 30, 2007.

3. In the event additional amounts due back to policyholders are later identified, Respondent shall immediately refund these amounts back to the affected policyholders.

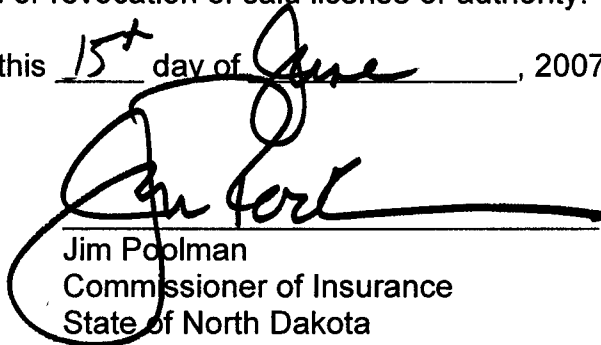
4. Respondent shall file with the Department for approval a letter of explanation which shall be used in the transmittal of the premium refund checks.

5. This Consent Order addresses only the issue of restitution of amounts due back to policyholders and the Department reserves the right to take further action if deemed necessary by the Department.

6. This Consent Order does not bind or waive the legal rights of insurance clients or policyholders to pursue any claims they might have against the Respondent.

7. The use of this Consent Order for competitive purposes by an insurance agent or agency holding a license in the State of North Dakota, or by any company holding a Certificate of Authority, or by anyone on their behalf, may be deemed unfair competition and be grounds for suspension or revocation of said license or authority.

DATED at Bismarck, North Dakota, this 15th day of June, 2007.


Jim Poolman
Commissioner of Insurance
State of North Dakota

CONSENT TO ENTRY OF ORDER

The undersigned, Dean Cottingham, on behalf of DDC, Inc., states that he/she has read the foregoing Consent Order, that he/she knows and fully understands

its contents and effect; that he/she has been advised of his/her right to a hearing in this matter, his/her right to be represented by legal counsel, his/her right to present evidence and arguments to the Commissioner, and his/her right to appeal from an adverse determination after hearing; and that by the signing of this Consent to Entry of Order he/she waives those rights in their entirety, and consents to entry of this Order by the Commissioner of Insurance. It is further expressly understood that this Order constitutes the entire settlement agreement between the parties hereto, there being no other promises or agreements, either expressed or implied.

DATED this 8th day of June, 2007.

DDC, Inc.

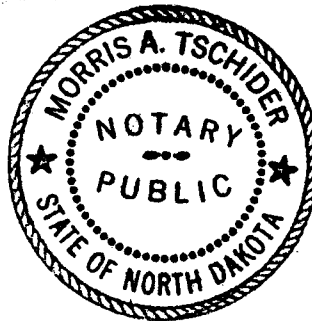
By: Dean Cottingham
Name
Vice President
Title

Subscribed and sworn to before me

this 8th day of June, 2007.

Morris A. Tschider
Notary Public

My commission expires: 4-15-09



STATE OF NORTH DAKOTA
BEFORE THE COMMISSIONER OF INSURANCE

<p>In the Matter of</p> <p>Diane K. Cottingham,</p> <p>dba Cottingham Insurance Agency,</p> <p>NPN 657089,</p> <p style="text-align: right;">Respondent.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>CEASE AND DESIST ORDER</p> <p>AND NOTICE OF</p> <p>OPPORTUNITY FOR HEARING</p>
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TO: Diane K. Cottingham, P.O. Box 1046, Underwood, ND 58576

Commissioner of Insurance Jim Poolman (hereinafter "Commissioner") has determined as follows:

1. N.D. Cent. Code § 26.1-01-03.1 authorizes the Commissioner to issue an Order to cease and desist when it appears that any person is or has engaged in an act or practice which violates or may lead to a violation of the North Dakota Century Code.
2. N.D. Cent. Code Chapter 26.1-26 governs the qualifications and procedures for the licensing of insurance agents and insurance companies within the State of North Dakota.
3. Diane K. Cottingham, dba Cottingham Insurance Agency, NPN 657089 (hereinafter "Respondent"), is presently and has been at all times pertinent to this action a licensed North Dakota insurance agent.
4. N.D. Cent. Code § 26.1-02-05 states, in part:

An insurance company may not transact insurance business in this state, as set forth in section 26.1-02-06, without a certificate of authority from the commissioner.

5. N.D. Cent. Code § 26.1-04-03 states, in part:

The following are unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

...

12. Misrepresentation in insurance applications. Making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, insurance producer, or individual.

6. N.D. Cent. Code § 26.1-26-13.1(1) states:

An insurance producer may not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.

7. N.D. Cent. Code § 26.1-26-42 states, in part:

The commissioner may suspend, revoke, place on probation, or refuse to continue or refuse to issue any license issued under this chapter if, after notice to the licensee and hearing, the commissioner finds as to the licensee any of the following conditions:

...

6. In the conduct of affairs under the license, the licensee has used fraudulent, coercive, or dishonest practices, or has shown oneself to be incompetent, untrustworthy, or financially irresponsible.
7. A misrepresentation of the terms of any actual or proposed insurance contract.

...

10. An improper withholding of, misappropriating of, or converting to one's own use any moneys belonging to policyholders, insurers, beneficiaries, or others received in the course of one's insurance business.

8. The Commissioner of Insurance for the State of North Dakota has come into information which alleges that Respondent has knowingly and intentionally engaged in the conduct of deceit and fraud against residents of the State of North Dakota in her actions of misappropriating and converting to her own use premium moneys belonging to several insurance clients and has failed to remit any of the premium moneys to the appropriate insurance companies.

9. Specifically, throughout January 2004 to March 2007, Respondent received premium payments from:

- Farmers Union Oil Company of Hazen (Cenex)
- Farmers Union Oil Company of Beulah (Cenex)
- Cenex of Bismarck, Mandan, Sterling, Dickinson
- Mercer Morton Co-op Transport

hereinafter referred to as "The Companies". Respondent misappropriated the premiums and converted the moneys to her own personal use, failed to place insurance with a properly licensed insurance company, provided false and misleading documents purporting to show that insurance had been placed with a properly licensed insurance company, paid claims from her own personal agency account, and engaged in other deceitful acts and practices that misled The Companies into believing that The Companies were insured with a properly licensed insurance company.

10. Respondent also represented to The Companies that she was properly appointed and authorized to act on behalf of specific licensed insurance companies when in fact she was not.

11. Further, Respondent knowingly and intentionally operated as an insurance company by accepting premiums, assuming risk and paying claims without holding a valid license to operate as an insurance company and represented herself to The Companies that she was a properly licensed and appointed agent of specific insurance companies.

12. Respondent's conduct constitutes violations of N.D. Cent. Code §§ 26.1-02-05, 26.1-04-03(12), 26.1-26-13.1(1), and 26.1-26-42(6), (7) and (10).

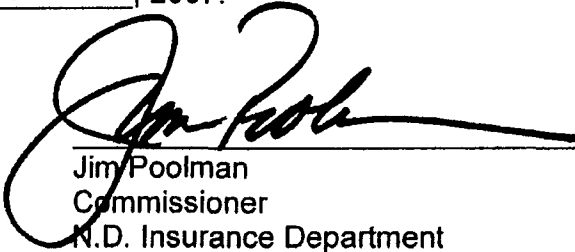
NOW, THEREFORE, IT IS HEREBY ORDERED pursuant to N.D. Cent. Code § 26.1-01-03.1 that Respondent shall immediately **CEASE AND DESIST** from soliciting, transacting, or otherwise engaging in the business of insurance with residents of the State of North Dakota.

RESPONDENT IS FURTHER ORDERED to **CEASE AND DESIST** from withdrawing moneys from any banking account into which the premiums received from The Companies were deposited, whether the withdrawal is for her personal salary, loan, dividend or any other purpose.

IT IS FURTHER ORDERED pursuant to N.D. Cent. Code § 26.1-01-03.1 that Respondent may make a written request for a hearing on this matter within 30 days of the date of this Order.

If the Respondent fails to request a hearing in writing within 30 days after being served with a copy of this Cease and Desist Order, the Commissioner shall make the Cease and Desist Order permanent, as the facts require.

DATED this 24th day of March, 2007.



Jim Poolman
Commissioner
N.D. Insurance Department
600 East Boulevard Avenue
Bismarck, ND 58505
(701) 328-2440

COTTINGHAM INVESTIGATION RESTITUTION SUMMARY AS OF JUNE 5, 2007

Policyholder	Premiums Paid	Claims Paid	Restitution
Cenex – Bismarck, Mandan, Dickinson, Sterling	\$338,603.69 (less \$750.00 bond premium)	\$12,045.40	\$325,808.29
Mercer-Morton Co-Op Transport	35,321.70	1,125.06	34,196.64
Cenex – Beulah	184,507.75 (less \$700.00 bond premium)	8,964.57	174,843.18
Gordy's, Inc.	133,028.35	16,437.27	116,591.08
Claudia Barden	3,383.29	0	3,383.29
Arnold and Rodney Wall	3,742.24	0	3,742.24
Jay Snyder J's Auto and Sports, Inc.	1,531.32	0	1,531.32
Page Larson Gencon	600.83	0	600.83
Leland and Juanita Grosz Grosz Wrecking	338.26	0	338.26
Bis/Man, Dakota, & ACE Security – Jack Werner	13,789.00	0	13,789.00
Total Premiums Paid	\$714,846.43	\$38,572.30	\$674,824.13
Note: Less bond premiums for Cenex-Bismarck/Mandan and Cenex-Beulah	1,450.00		
Total	\$713,396.43		